

### **REMARKS/ARGUMENTS**

Claims 1-3, 5, 7-13, 19, 26, 27 and 29-39 remain in the application. Claims 4, 6, 14-18, 20-25 and 28 have been canceled.

The allowance of claims 4, 15-18, 21-25 and 28 subject to being rewritten in independent form including all of the limitations of the base claim and any intervening claims is noted with appreciation. These claims have been rewritten in independent form as claims 29-39, respectively, and are now presumed allowable.

This still leaves claims 1-3, 5, 7-13, 19, 26 and 27 for further consideration.

Claim 26 is rejected under 35 U.S.C. § 102(b) as being anticipated by McMasters Scott (U.S. Patent No. 306,869). According to the Examiner, McMasters Scott discloses a triangular shaped member (a) having tread and riser slots (n) extending at 90° relative to one another, the tread and riser slots having inner ends terminating in a closely spaced relation from one another, and outer ends terminating in a plane parallel to one of the side edges (Fig. 1). However, the element (n) of McMasters Scott is a right angle square (column 2, line 38), not tread and riser slots. Also, the two legs of the right angle square (n) of McMasters Scott intersect each other and thus do not have inner ends terminating in closely spaced relation from one another without intersecting one another as claimed. Further, the outer ends of the two legs of the right angle square of McMasters Scott do not terminate in a plane parallel to one of the side edges as claimed. Accordingly, claim 26 is submitted as clearly allowable.

Claims 1 and 2 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Palitto (U.S. Patent No. 2,593,914). The Examiner admits that Palitto does not

disclose a combination layout tool comprising one triangular shaped member having two  $67\frac{1}{2}^{\circ}$  angle corners as claimed, but contends it would have been obvious to break the combination layout tool of Palitto along the bisecting line 9, forming two triangles, each with two  $67\frac{1}{2}^{\circ}$  angle corners and a  $45^{\circ}$  angle corner, since Palitto discloses the desire to form angles at  $67\frac{1}{2}^{\circ}$  (column 1, lines 45-53 and column 3, lines 10-19). However, it is respectfully submitted that there is absolutely no suggestion or motivation for breaking the combination layout tool of Palitto along the bisecting line 9 as suggested by the Examiner. The only teaching in Palitto for using the disclosed device to draw lines at the various angles mentioned in column 3, lines 10-19 including an angle of  $67\frac{1}{2}^{\circ}$  is to line up an already drawn line with the bisecting line 9 and then draw along one of the sides S-1 - S-4 to provide a line related at  $67\frac{1}{2}^{\circ}$ . This is entirely different than providing a triangular shaped combination layout tool with two  $67\frac{1}{2}^{\circ}$  angle corners and one  $45^{\circ}$  angle corner as recited in claims 1 and 2. Accordingly, claims 1 and 2 are submitted as clearly allowable.

Claims 3, 5, 10 and 11 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Wright (U.S. Patent No. 5,170,568) in view of Hoag (U.S. Patent No. 5,943,974). The Examiner admits that Wright does not disclose a combination layout tool wherein the incremental angle lines (13) are elongated incremental slots, but contends that it would have been obvious to use slots as the elongated markings, as taught by Hoag, so that fabric or thread could be used to mark and angle measurements and in order to more precisely form a marking of an angle with the slot to guide a writing implement. However, it is respectfully submitted that the Examiner has combined these references in light of applicant's teachings and certainly not from

any teachings or suggestions found in the cited references, which is clearly improper. Moreover, the elongated slots of Hoag intersect a side edge of the gathering gauge and thus do not terminate in spaced relation from the side edge of a combination layout tool opposite the one corner as claimed. Accordingly, even if it were proper to combine the teachings of Wright and Hoag in the manner suggested by the Examiner, which applicant's attorney does not admit, claim 3 and claims 5, 10 and 11 dependent thereon still patentably distinguish over these references.

Claim 5 further patentably distinguishes over these references by reciting that one of the incremental angle slots is a 90° angle slot that extends in a direction perpendicular to the one side edge in alignment with the notch. No such slot is disclosed in Wright.

Claim 10 further patentably distinguishes over these references by reciting a triangular shaped slot in the member in close proximity to the slot that has an acute angle corner facing the notch for latching one end of a string in the corner that has been pulled over the notch and one of the angle slots and through the triangular shaped slot. The triangularly shaped slot (14) of Wright is a right-triangular orifice that has measurement marks (15) for measuring and marking certain standardized distances and for holding and hanging the square (1) (column 3, lines 27-33). Moreover, the 90° angle of the triangularly shaped slot (14) of Wright faces the notch, and thus the slot of Wright does not have an acute angle corner facing the notch for latching one end of a string in the corner as claimed.

Claim 11 further patentably distinguishes over these references by reciting that the rafter tail/ridge cut pattern formed in one side edge of the triangular shaped member

in spaced relation from the notch comprises two straight sides intersecting the one side edge and intersecting one another at 90°, with one of the sides being shorter than the other side. No such rafter tail/ridge cut pattern is formed in the one side edge of the combination layout tool disclosed in Wright.

Claims 7-9 and 19 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Wright and Hoag and further in view of Premo (U.S. Patent No. 2,579,857). However, all of these claims ultimately depend from claim 3 and are submitted as allowable for substantially the same reasons in addition to reciting other novel features in the claimed combination.

Claim 4, which the Examiner indicated to be allowable and has been rewritten in independent form as claim 29, is also rejected under 35 U.S.C. § 103(a) as being unpatentable over Wright and Hoag further in view of Palitto. However, claim 29 clearly patentably distinguishes over these references for the reasons stated by the Examiner in the statement of reasons of allowable subject matter of claim 4 on page 9 of the Office Action. Accordingly, withdrawal of this rejection is respectfully requested.

Claims 12 and 13 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Wright and Hoag and further in view of Roads (U.S. Patent No. 1,315,333). However, claims 12 and 13 depend from claim 3 and are submitted as allowable for substantially the same reasons. Moreover, claims 12 and 13 further recite that there are at least two rafter tail/ridge cut patterns formed in the one side edge of the triangular shaped member in spaced relation from one another and from the notch, each of which comprises two straight sides intersecting the one side edge and intersecting one another at 90°, with one of the sides of each pattern being shorter than

the other side, in a manner clearly nowhere disclosed or suggested in the cited references. Accordingly, claims 12 and 13 are submitted as allowable in their own right in addition to being dependent on claim 3.

Claim 27 is rejected under 35 U.S.C. § 103(a) as being unpatentable over McMasters Scott. However, claim 27 depends from claim 26 and is submitted as allowable for substantially the same reasons.

For the foregoing reasons, this application is now believed to be in condition for final allowance of all of the pending claims 1-3, 5, 7-13, 19, 26, 27 and 29-39, and early action to that end is earnestly solicited. Should the Examiner disagree with applicant's attorney in any respect, it is respectfully requested that the Examiner telephone applicant's attorney in an effort to resolve such differences.

In the event that an extension of time is necessary, this should be considered a petition for such an extension. If required, fees are enclosed for the extension of time and/or for the presentation of new and/or amended claims. In the event any additional fees are due in connection with the filing of this amendment, the Commissioner is authorized to charge those fees to our Deposit Account No. 18-0988 (Charge No. MCBP0101USA).

Respectfully submitted,

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